

**STATE OF INDIANA – COUNTY OF MIAMI  
IN THE MIAMI CIRCUIT AND SUPERIOR COURTS**

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**Notice of Proposed Local Rule Amendments and Finding Good Cause to  
Deviate from Established Schedule  
November 14, 2016**

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The judges of the Miami Circuit and Superior Courts, pursuant to Trial Rule 81(B), give notice of amendments to the Local Rules pertaining to the assignment of special judges in civil cases at **LR52-TR79 (H)-1** and the assignment of criminal cases at **LR52-CR2.2-1** and a **new local rule** on special judge assignment in criminal cases at **LR52-CR2.2-2**. and find good cause to deviate from the schedule for amending said Local Rules under Trial Rule 81(D). All new text is shown by underlining, and deleted text is shown by ~~striketrough~~. Supreme Court approval is requested.

Notice has been given to the public by posting in the Office of the Miami County Clerk and on the Clerk's website and on the Indiana Judicial Website, and by furnishing a copy to the officers and other members of the Miami County Bar Association. **Comments** may be made until **December 20, 2016**, to:

Hon. Timothy P. Spahr, Judge of the Miami Circuit Court, Attn.: Public  
Comment on Local Rules, Miami County Courthouse, 25 North Broadway, Peru,  
IN 46970; or [tspahr@miamicountyin.gov](mailto:tspahr@miamicountyin.gov).

This Notice supersedes the Notice of Proposed Local Rule Amendments and Finding Good Cause to Deviate from Established Schedule that was issued on November 7, 2016.

These rule amendments **will be effective on January 1, 2017**.

**Dated this 14th day of November, 2016.**

**/S/ TIMOTHY P. SPAHR, JUDGE  
MIAMI CIRCUIT COURT**

**/S/ J. DAVID GRUND, JUDGE  
MIAMI SUPERIOR COURT I**

**/S/ DANIEL C. BANINA, JUDGE  
MIAMI SUPERIOR COURT II**

**LR52-TR79 (H)-1**  
**ASSIGNMENT OF SPECIAL JUDGES IN CIVIL CASES**

**Purpose of Rule**

This rule is adopted to comply with the requirements of Trial Rule 79(H) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges ensuring the effective use of all judicial resources within Administrative District 8 (which is comprised of Cass County, Fulton County, Howard County, and Miami County) and includes each person eligible for appointment under Section (J) of Trial Rule 79.

**Central Office Established**

There is established a Central Office for the keeping of records of appointment and selection of special judges for this District. The Central Office of this District shall be the Howard Superior Court 4.

The Courts of this County shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. Each of the Courts of this County shall accept from the Central Administrator the name of the individual to then be appointed as special judge for a given case.

The person serving as the Central Administrator shall have the following responsibilities:

1. To maintain a list of persons qualified to serve as special judge under Section (J) of Trial Rule 79.
2. To take referrals from the several courts of this District, requesting appointment of a special judge.
3. To alternately and on a rotating basis appoint qualified judges from the list maintained for that purpose.
4. To notify the referring court of the individual to be appointed under this rule.

**Current Rotation Schedule**

The following shall be the rotation schedule used by the Central Administrator:

1. The Judge of the Cass Superior Court I
2. The Judge of the Howard Superior Court III
3. The Judge of the Fulton Superior Court
4. The Judge of the Howard Superior Court II
5. The Judge of the Fulton Circuit Court
6. The Judge of the Howard Circuit Court
7. The Judge of the Miami Superior Court I
8. The Judge of the Howard Superior Court I
9. The Judge of the Cass Circuit Court
10. The Judge of the Miami Circuit Court

11. The Judge of the Cass Superior Court II
12. The Judge of the Howard Superior Court IV
13. The Judge of the Miami Superior Court II

### **Administrative Fee**

Each of the Courts participating under this rule shall pay each year the sum of Fifty Dollars (\$50.00) to the Central Administrator, payable directly to the Administrator by the 15th day of September of each year.

### **Certification to the Supreme Court**

In cases in which no judge is eligible to serve as special judge in a particular case or where the circumstances of a case require it, the Court shall certify those circumstances to the Supreme Court and that Court shall make the appointment.

### **Credit for Voluntary Acceptance of Certain Special Judge Cases**

If, outside the normal rotation schedule, a judge voluntarily accepts a Cass County, Fulton County, Howard County, or Miami County civil case at the request of the parties to the case or at the request of the Court in which the case is pending, that judge may then receive credit for taking that case, with the Central Administrator skipping over that judge the next time that judge's name comes up for appointment for a case under the above-described rotation schedule. In order to receive such credit, the judge shall notify the Central Administrator of his or her voluntary acceptance of such a civil case no later than seven (7) days after his or her formal qualification and assumption of jurisdiction in that case. At the time that such notification is provided to the Central Administrator, the notifying judge shall also provide the Central Administrator the cause number of the civil case that he or she has voluntarily accepted.

(Effective January 1, 2017)

## **LR52-TR79 (H)-1**

### **ASSIGNMENT OF SPECIAL JUDGES IN CIVIL CASES**

#### **Purpose of Rule**

~~This rule is adopted to comply with the requirements of Trial Rule 79(H) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges insuring the effective use of all judicial resources within Administrative District 5-8, and includes each court eligible for appointment under Section (J) of Trial Rule 79.~~

#### **Central Office Established**

~~There is established a Central Office for the keeping of records of appointment and selection of special judges for this District. The Central Office of this District shall be Howard Superior Court 4.~~

~~The Miami Circuit and Superior Courts shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. The Miami Circuit and Superior Courts shall accept from the Central Administrator the name of the individuals to then be appointed as special judge.~~

~~The person serving as Administrator of the Central Office shall have the following responsibilities:~~

- ~~1. To maintain a list of persons qualified to serve as special judge under Section (J) of Trial Rule 79.~~
- ~~2. To take referrals from the several courts of this District, requesting appointment of special judge.~~
- ~~3. To alternately and on a rotating basis appoint qualified judges from the list maintained for that purpose.~~
- ~~4. To notify the referring court of the individual to be appointed under this rule.~~

### **Current Rotation Schedule**

~~The following shall be the rotation schedule used by the Central Administrator:~~

- ~~1. The Judge of Cass Superior Court I~~
- ~~2. The Judge of the Howard Superior Court III~~
- ~~3. The Judge of the Fulton Superior Court \~~
- ~~4. The Judge of the Howard Superior Court II~~
- ~~5. The Judge of the Fulton Circuit Court~~
- ~~6. The Judge of the Howard Circuit Court~~
- ~~7. The Judge of the Miami Superior Court I~~
- ~~8. The Judge of the Howard Superior Court I~~
- ~~9. The Judge of the Cass Circuit Court~~
- ~~10. The Judge of the Miami Circuit Court~~
- ~~11. The Judge of the Cass Superior Court II~~
- ~~12. The Judge of the Howard Superior Court IV~~
- ~~13. The Judge of Miami Superior Court II~~

### **Administration Fee**

~~Each of the Courts participating under this rule shall pay each year the sum of Fifty Dollars (\$50.00) to the Central Administrator, payable directly to the Administrator by the 15th day of September of each year.~~

### **Certification to Supreme Court**

~~In cases in which no judge is eligible to serve as special judge in a particular case or where the circumstances of a case require it, the court shall certify those circumstances to the Supreme Court and that Court shall make the appointment.~~

*(Effective July 1, 2011)*

**LR52-CR2.2-1**  
**ASSIGNMENT OF CRIMINAL CASES**

Pursuant to Rule 2.2 of the Indiana Rules of Criminal Procedure, the Judges of the Miami Circuit Court and Superior Courts hereby establish the following local rules for the assignment of criminal cases:

1. All traffic-related felony, misdemeanor, and infraction cases shall be filed in the Miami Superior Court I. In the event that non-traffic-related felony or misdemeanor charges are filed against a defendant who is also charged with a traffic-related felony or misdemeanor arising from the same set of facts, the non-traffic-related charges shall also be filed in the Miami Superior Court I.
2. All felony cases filed against a defendant as a result of one or more criminal acts allegedly committed by the defendant at the Miami Correctional Facility while he or she was a prisoner, employee, or visitor at the Miami Correctional Facility shall be filed in the Miami Superior Court I.
3. All non-traffic-related misdemeanor cases shall be filed in the Miami Superior Court II.
4. All Class C and D felony and Level 5 and Level 6 felony cases that are not traffic-related and that do not fall within the ambit of Paragraph 2, above, shall be filed in the Miami Superior Court II.
5. All Murder cases and all Class A and B felony and Level 1, Level 2, Level 3, and Level 4 felony cases that are not traffic-related and that do not fall within the ambit of Paragraph 2, above, shall be filed in the Miami Circuit Court.
6. ~~In the event that a change of judge is granted because of a conflict of interest or pursuant to Rule 12 of the Indiana Rules of Criminal Procedure, the case shall first be assigned to a judge of one of the other two Miami County Courts who does not have a conflict of interest. In the event that none of the judges of the Courts of Miami County can preside over a case that was originally filed in the Miami Circuit Court, that case shall be first assigned to the Honorable Brant Parry. If Judge Parry is unable to accept the case, the case shall be assigned to the Honorable Thomas Perrone instead. In the event that none of the judges of the Courts of Miami County can preside over a case that was originally filed in the Miami Superior Court I or the Miami Superior Court II, that case shall be first assigned to the Honorable Thomas Perrone. If Judge Perrone is unable to accept the case, the case shall be assigned to the Honorable Brant Parry instead.~~

*(Effective July 1, 2014)*

*(Effective January 1, 2017)*

**LR52-CR2.2-2**

**ASSIGNMENT OF SPECIAL JUDGES IN CRIMINAL CASES**

If a change of judge is granted because of a conflict of interest or pursuant to Rule 12 of the Indiana Rules of Criminal Procedure, the case shall first be assigned to a judge of one of the other two Miami County Courts who does not have a conflict of interest. If none of the judges of the Courts of Miami County can preside over a case that was originally filed in the Miami Circuit Court, that case shall be first assigned to the sitting Judge of Howard Superior Court II. If that judge is unable to accept the case, the case shall be assigned to the sitting Judge of Cass Superior Court I. If none of the judges of the Courts of Miami County can preside over a case that was originally filed in the Miami Superior Court I or the Miami Superior Court II, that case shall be assigned to the sitting Judge of Cass Superior Court I. If that judge is unable to accept the case, the case shall be assigned to the sitting Judge of the Howard Superior Court II.

If the Clerk is unable to assign a special judge from the judges listed above, then the Clerk shall select a judge on a rotating basis from a list of the other Judges within the counties of Cass, Fulton, and Howard in District 8 or the contiguous counties of Wabash or Grant.

If no judicial officer within the above list is eligible to serve as special judge, or if the case's circumstances warrant selection of a special judge by the Indiana Supreme Court, the judge of the court in which the case is pending shall certify the matter to the Indiana Supreme Court to appoint a special judge.

*(Effective January 1, 2017)*